

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

FIRTIVA CORPORATION,)	Civil Action No. 2:21-cv-111
)	
Plaintiff,)	JURY TRIAL DEMANDED
)	
v.)	
)	
FUNIMATION GLOBAL GROUP, LLC,)	
)	
Defendant.)	
)	
)	
)	
)	
)	
)	
)	

COMPLAINT

Plaintiff Firtiva Corporation (“Firtiva”), by its undersigned counsel, for its Complaint against defendant Funimation Global Group, LLC (“Funimation” or “Defendant”), states as follows:

I. NATURE OF THE ACTION

1. This is a patent infringement action to end Funimation’s unauthorized and infringing manufacture, use, sale, offering for sale, and/or importation of methods and products incorporating Firtiva’s patented inventions.

2. Firtiva is owner of all right, title, and interest in and to multiple United States patents and patent applications including United States Patent No. 10,116,999 (the ‘999 Patent), issued October 30, 2018 and entitled “Method for Advertisers to Sponsor Broadcasts Without Commercials.” A true and correct copy of the ‘999 Patent is attached as Exhibit A.

3. Funimation manufactures, provides, sells, offers for sale, imports, and/or distributes products and services which directly infringe the '999 Patent. Further, Funimation indirectly infringes the '999 Patent by inducing and/or contributing to infringement by others.

4. Firtiva seeks monetary damages and prejudgment interest for Funimation's past and continuing infringement of the '999 Patent.

II. THE PARTIES

5. Plaintiff Firtiva Corporation is a corporation incorporated under the laws of the State of Nevada and having its principal place of business at 10981 Willow Valley Ct Las Vegas, NV 89135.

6. Defendant Funimation Global Group LLC is a limited liability company organized and existing under the laws of Delaware and is authorized to do business in Texas.

7. Funimation has its principal place of business located at 1200 Lakeside Parkway, Suite 100, Flower Mound, Texas 75028 within Denton County and this judicial district.

8. Funimation may be served through its agent for service of process located at 211 E. 7th Street, Suite 620 Austin, TX 78701-3218.

III. JURISDICTION AND VENUE

9. This is an action for patent infringement, which arises under the Patent Laws of the United States, in particular, 35 U.S.C. §§ 271, 281, 282, 284, and 285. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

10. The Court has personal jurisdiction over Funimation because it has committed acts giving rise to this action within Texas and within this judicial district.

Funimation also regularly does business or solicits business in this District and in Texas, engages in other persistent course of conduct and derives substantial revenue from products and/or services provided in this District and in Texas, and has purposefully established substantial, systematic and continuous contacts with this District and should reasonably expect to be sued in a court in this District. For example, Funimation has a regular and established place of business in the State of Texas and in this District, including its worldwide headquarters located at 1200 Lakeside Parkway, Suite 100, Flower Mound, Texas 75028 and including operating its online and mobile content platform in this District, and conducting business with customers residing in this District and offers support service to customers in this District and Texas. Funimation has committed acts of patent infringement and, as detailed below, contributed to or induced acts of patent infringement by others in this District and elsewhere in Texas. Funimation is registered to do business in Texas and maintains an agent authorized to receive service of process within Texas. Given these contacts, the Court's exercise of jurisdiction over Funimation will not offend traditional notions of fair play and substantial justice.

11. Venue is proper in the Eastern District of Texas under 28 U.S.C. §§1391 and 1400(b) because Funimation has an established place of business in this District, including at 1200 Lakeside Parkway, Suite 100, Flower Mound, Texas 75028, has committed acts within this District giving rise to this action and resulting in the derivation of substantial revenue from goods and services provided to customers in Texas, and Funimation continues to conduct business in this District, including one or more acts of selling, using, importing, and/or offering for sale infringing goods and/or performing support service to Funimation's customers in this District.

IV. FACTUAL ALLEGATIONS

Patent-in-Suit

12. The ‘999 Patent is generally directed toward improved signal processing systems and methods of combining embedded information and content and in electronic transmission to gather various information, such as viewing information and user information, and for transmitting enticements based on at least one of the embedded information, the viewing information, the user information, or the sponsor of a broadcast.

13. The ‘999 Patent further describes signal processing through use of a multiplexer for inserting the embedded information into a transmission at pre-defined intervals throughout the broadcast and the embedded information having at least one end-of-slice marker that signals the end of a time slice which in turn corresponds to a sponsor identification.

14. Mr. Robert Zeidman is the sole inventor and owner of the ‘999 Patent which issued from a continuation of United States Patent Application No. 09/767,819 (the “’819 Application”), filed on January 22, 2001. The United States Patent and Trademark Office (the “USPTO”) issued the ‘999 Patent on October 30, 2018.

15. The specification of the ‘999 Patent identifies problems in the prior art and claims improvements to these problems. Prior to the invention of the ‘999 Patent, television shows and movies on network stations were broadcast to viewers throughout the world at very little cost to the viewer, if any, because sponsors paid for the rights to insert commercials into the show with the intent of enticing viewers to buy their products and/or services. However, while demographic studies could determine the general characteristics of viewers of any TV show, many commercials advertised products to people who had no need for them. For example, pet products were seen by many people who did not have pets.

16. With some prior art solutions, information about users and viewing habits would be communicated through devices external to the television such as a separate computer or custom hardware, or would require a viewer to go to a website and manually

enter this information. Some prior art solutions would set up a special-purpose device external to a television to record audio and then match the audio to known audio of television shows to identify the content. Some prior art solutions required special tracking programs to be installed on the viewer's computer to track the viewing information. Some prior art solutions required a second connection from the user's computer, independent of the one carrying the content, over which to send sponsor information, content information, and viewer information. The '999 Patent solved this problem by, amongst other things, using signal processing techniques to embed content and information about the content into a single stream from a single source and extract the content from the embedded information at the viewer's computer.

17. As such, in or around the invention date of 2001, a technology was needed by the sponsors that would help them sell their products to viewers who might actually purchase them.

18. With the growing ubiquitous rollout of the Internet worldwide at the time of the invention, and the decreasing costs for increasing bandwidth, targeted marketing became possible using Internet technology. All of the above issues also applied to Internet "broadcasts" of media, and solutions to the issues are implemented in the '999 Patent.

19. The '999 Patent was examined after the United States Supreme Court decision in *Alice Corp. v. CLS Bank International*, 573 U.S. 208 (2014) and enjoys the presumption of validity.

20. The '999 Patent has a priority date of January 22, 2001. As of the priority date, the inventions as claimed were novel, non-obvious, unconventional, and non-routine.

21. For example, and as evidence of the stated non-routine aspects of the inventions, during prosecution of the '999 Patent, the patent examiner considered whether the claims of the '999 Patent were eligible under 35 U.S.C. §101 in view of the United States Supreme Court's decision in *Alice Corp. v. CLS Bank International*, 573 U.S. 208 (2014). The patent examiner affirmatively found that the claims are in fact eligible under

35 U.S.C. §101 because all pending claims were directed to patent-eligible subject matter, because none of the pending claims were directed to an abstract idea, and because there would be no preemption of the abstract idea or the field of the abstract idea.

22. The '999 Patent is valid and enforceable.

23. Firtiva is the assignee of and owns all right, title, and interests in the '999 Patent, including rights of recovery of damages for all past and future infringement thereof.

Firtiva Corporation and Its Pioneering Innovations

24. Established in 2013, Firtiva is a revolutionary video-on-demand company as described in the advertising materials distributed by the company and shown in Figure 1.

Why Firtiva...?

For Members
Firtiva members watch videos and listen to music at no cost and 100% free of commercial interruption. No ads at the beginning, middle, or end; no pop-ups; no banner ads; no ads on the side of the page, top of the page, or bottom of the page. Just a simple user interface. Plus you get email or SMS coupons and other incentives for cool stuff you really want from our sponsors.

For Content Providers
Give us your content and we'll share it around. But don't worry... that's a good thing, because you get paid every time it's watched. Piracy is no longer a concern because the more people watching, the more you get paid.

As Firtiva grows, our patented system will provide revenue to content producers while continuing our commitment to a video viewing experience uninterrupted by commercials, pop-ups, and banner ads!

Scan here to learn more or register for Firtiva

  **firtiva**
WWW.FIRTIVA.COM

Figure 1

25. Firtiva's technology permits users to view content for free and without the interruption of commercials. Instead, companies pay to sponsor content, and content producers share the revenue whether they are large corporate studios, independent filmmakers, or individuals. In return, viewers agree to receive special offers from these sponsors for products they are likely to want. A viewer gives profile information to Firtiva

and allows Firtiva to track viewing habits. This information is used to generate emails and/or text messages that are sent to users containing advertisements and other incentives to purchase products. Firtiva offers broadcasters and sponsors access to a more granular level of information about a user's viewing habits as it tracks viewing of the entire content than was previously possible. Firtiva is also able to track areas of the content that the user viewed multiple times or skipped entirely to help further determine the user's preferences.

26. Firtiva maintains its platform at www.firtiva.com.

27. Firtiva marks its goods and services with, among other things, the '999 Patent on its website.

COUNT I: INFRINGEMENT OF THE '999 PATENT

28. Firtiva incorporates paragraphs 1 through 28 by reference.

29. Funimation, without authorization or license from Firtiva, has been and is presenting directly infringing, literally or under the doctrine of equivalents, at least claim 18 of the '999 Patent, pursuant to 35 U.S.C. §271(a), including through making, using, selling, and/or offering for sale in the United States infringing products and services, and/or importing into the United States, methods, services, systems, and products made in accordance with the '999 Patent. Funimation is thus liable for direct infringement of the '999 Patent pursuant to 35 U.S.C. §271(a). Exemplary infringing products and services include Funimation's online and mobile "Funimation" content platforms (collectively, "the Accused Instrumentalities," as shown in Figure 2 and Figure 3, respectively).

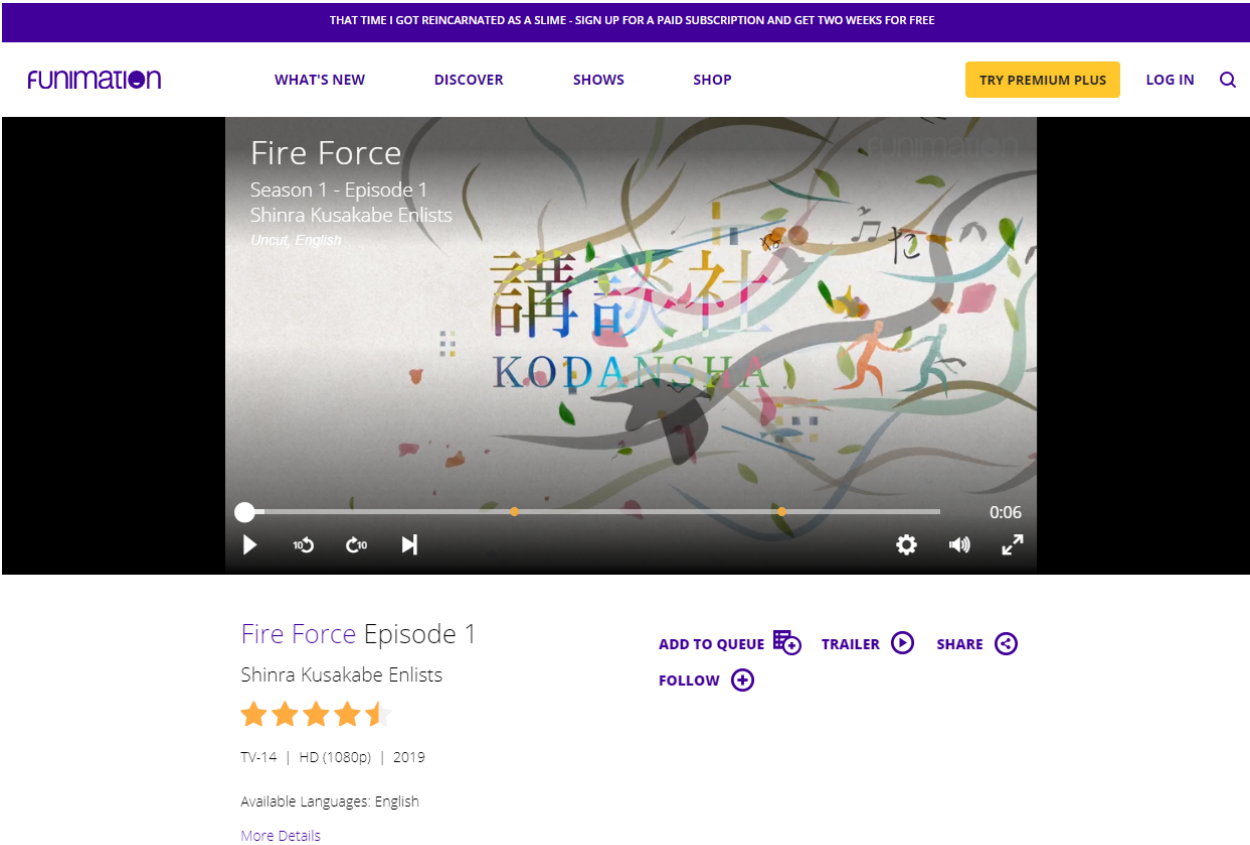


Figure 2

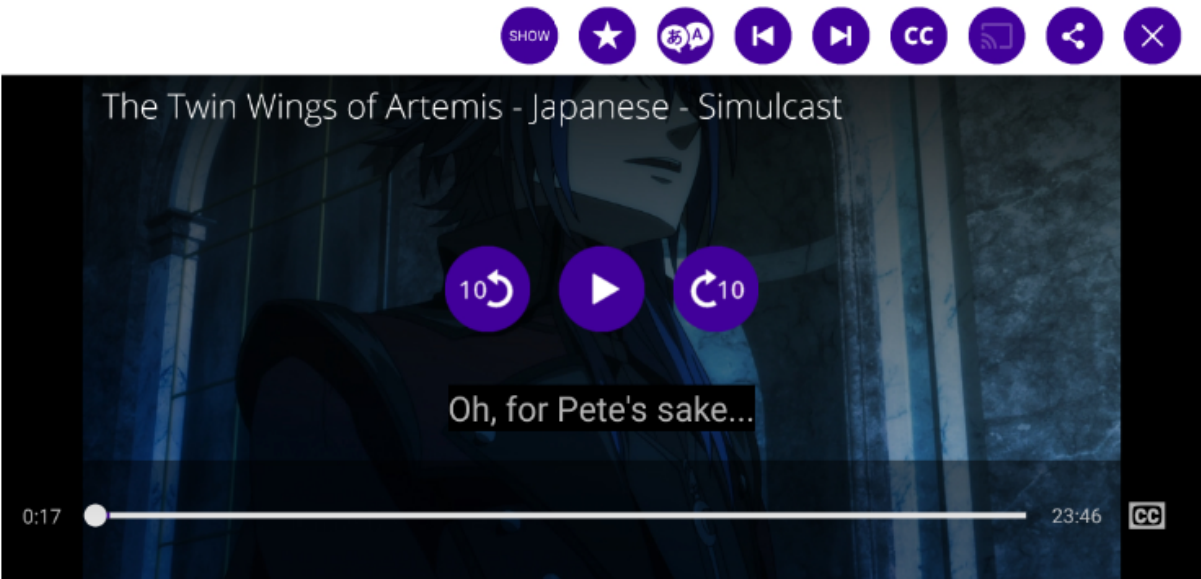


Figure 3

30. As reflected in Funimation’s privacy policy, and from an analysis of

Funimation's network communications, the Accused Instrumentalities include a computer-implemented method comprising combining content with embedded information in a broadcast by use of a multiplexer, the multiplexer inserting the embedded information into the broadcast at pre-defined intervals throughout the broadcast by use of a timer. As shown in Figure 4 when a user clicks on a video available on the Accused Instrumentality, a video playback request is sent from the user's device ("Client Device") to the Funimation servers ("Webservers"). This video playback request is specified by a hyperlink included in the Accused Instrumentalities.



The image shows a screenshot of an HTTP GET request from a browser. The request is for the URL <https://www.funimation.com/shows/the-promised-neverland/121045/?qid=undefined>. The host is www.funimation.com. The request includes various headers such as User-Agent (Mozilla/5.0), Accept (text/html, application/xhtml+xml, application/xml), Sec-Fetch-Site (same-origin), Sec-Fetch-Mode (navigate), Sec-Fetch-User (?1), Sec-Fetch-Dest (document), Referer (https://www.funimation.com/), Accept-Encoding (gzip, deflate, br), Accept-Language (en-US,en;q=0.9), and a large Cookie string containing sessionid, csrfToken, region, addOns, and various tracking and user identification parameters.

Figure 4

31. Upon receiving the video playback request from the Client Device, the Webservers prepare the broadcast by use of a multiplexer and insert embedded information in a broadcast. The Webservers send the response to the video playback request to the Client Device. For example, as shown in Figure 5, the Webservers' response transmitted to the Client Device includes the title image information, content name, and video ID corresponding to the broadcast. The Webservers also transmit the audio and video portion of the broadcast and the corresponding subtitles to the Client Device.

```

HTTP/1.1 200 OK
Date: Wed, 13 Jan 2021 06:08:12 GMT
Content-Type: text/html; charset=utf-8
Connection: keep-alive
Server: nginx
X-Frame-Options: DENY
Vary: Cookie, Origin, Accept-Language
Content-Language: en-us
X-Content-Type-Options: nosniff
X-XSS-Protection: 1; mode=block
Referrer-Policy: strict-origin
Set-Cookie: csrftoken=NsZ2qqewCHxbOpYAm2ffN4rSzXQdoPhwQVNI0GeEIMve2ViE0M10kRwH7jPKRf2H; expires=Wed, 12 Jan 2022 06:08:12 GMT;
HttpOnly; Max-Age=31449600; Path=/; SameSite=lax; Secure
Set-Cookie: LANGUAGE_PREFERENCE=en-us; Path=/
X-CDN: Incapsula
X-Info: 10-13609385-13525475 pNNN RT(1610518091436 31) q(0 0 0 -1) r(4 4) U12
Content-Length: 491657

<!DOCTYPE html>
<html ng-app="funimationApp" lang="en">
<head prefix="og: http://ogp.me/ns# fb: http://ogp.me/ns/fb#"
  <meta charset="utf-8">
  <title>Watch The Promised Neverland Season 1 Episode 1 Sub & Dub | Anime Simulcast | Funimation</title>
  <meta name="description" content="Grace Field House is where children without parents are taken in. An irreplaceable home
  for the 38 children who live happily every day. Until suddenly, their lives are completely changed forever...">
  <meta name="viewport" content="width=device-width, initial-scale=1">

  <meta name="keywords" content="121045, the promised neverland">
  <meta property="og:site_name" content="Funimation">
  <meta property="og:type" content="website">
  <meta property="og:image" content="https://derf9vixhwwx1.cloudfront.net/image/upload/c_fill,q_60,h_630,w_
  1290/oth/FunimationStoreFront/1899673/Japanese/1899673_Japanese_KeyArt-OfficialVideoImage_0db299e7-4c77-4b95-8a51-
  e5807135c66f.jpg">
  <meta property="fb:app_id" content="444514955756615" />
  <meta property="og:title" content="Watch The Promised Neverland Season 1 Episode 1 Anime on Funimation">

  <meta property="og:description" content="Grace Field House is where children without parents are taken in. An
  irreplaceable home for the 38 children who live happily every day. Until suddenly, their lives are completely changed forever...">

  <meta property="og:locale" content="en_US" />
  <meta property="og:locale:alternate" content="en_AU">
  <meta property="og:locale:alternate" content="en_NZ">

```

Figure 5

32. Additionally, the Funimation's Privacy Policy page (<https://www.sonypictures.com/corp/privacy.html>), which is attached as Exhibit B hereto, and incorporated herein in its entirety, further demonstrates and confirms the Accused Instrumentalities combine content with embedded information in a broadcast by use of a multiplexer, the multiplexer inserting the embedded information into the broadcast at pre-defined intervals throughout the broadcast by use of a timer, as shown in Figure 6:

B. Information Collected Automatically.

SPE, its Service Providers, and/or Third-Party Services may also automatically collect certain information about you when you access or use the Service ("Usage Information"). Usage Information may include IP address, device identifier, browser type, operating system, information about your use of the Service, and data regarding network connected hardware (e.g., computer or mobile device) . . .

The methods that may be used on the Service to collect Usage Information include:

- **Log Information:** Log information is data about your use of the Service, such as IP address, browser type, internet service provider, referring/exit pages, operating system, date/time stamps, and related data, and may be stored in log files.
- **Information Collected by Cookies and Other Tracking Technologies:** Cookies, web beacons (also known as "tracking pixels"), embedded scripts, location-identifying technologies, fingerprinting, device recognition technologies, in-app tracking methods and other tracking technologies now and hereafter developed ("Tracking Technologies") may be used by SPE and third parties including other Sony group companies to collect information about interactions with the Service or e-mails, including information about your browsing and purchasing behavior.
 - **Cookies**
A cookie is a small text file that is stored on a user's device, which may be session ID cookies or tracking cookies . . . Tracking cookies remain longer and help in understanding how you use the Service, and enhance your user experience. . . .
 - **Web Beacons ("Tracking Pixels")**
Web beacons are small graphic images, also known as "internet tags" or "clear gifs," embedded in web pages and e-mail messages. Web beacons may be used, without limitation, to count the number of visitors to the Service, to monitor how users navigate the Service, to count content views, and to measure the effectiveness of our advertising and email marketing.
 - **Embedded Scripts**
An embedded script is programming code designed to collect information about your interactions with the Service. It is temporarily downloaded onto your computer from SPE's web server, or from a third party with which SPE works, and is active only while you are connected to the Service, and deleted or deactivated thereafter . . .
 - **In-App Tracking Methods**
There are a variety of Tracking Technologies that may be included in mobile applications, and these are not browser-based like cookies and cannot be controlled by browser settings. Some use device identifier, or other identifiers such as "Ad IDs" to associate app user activity to a particular app and to track user activity across apps and/or devices.

Some information about your use of the Service and certain Third-Party Services may be collected using Tracking Technologies across time and services, and used by SPE, Sony group companies, and third parties for purposes such as to associate different devices you use, and deliver relevant ads and/or other content to you on the Service and certain Third-Party Services . . .

...

Figure 6

33. As reflected in Funimation's privacy policy, and from an analysis of Funimation's network communications, the Accused Instrumentalities include the embedded information including at least one end-of-slice marker that signals the end of a time slice. For example, as shown in Figure 7, the sponsor identification comprising element "adId" (see box labeled A) and element "url" (see box labeled B) are associated with the end-of-slice marker. The end of a time slice is associated with the "tpos" element which in this example has an identified value of "132" as shown in Figure 8. The "132" relates to the time in number of seconds that the viewer spent viewing the content corresponding to the slice (see Figure 9), thereby associating a corresponding sponsor identification with the time slice.

```

"adId": "48695193",
"noPreload": false,
"adUnit": "46002",
"iwrapper": false,
"required": false,
"creatives": [
  {
    "creativeId": "8739071",
    "baseUnit": "video",
    "duration": "30.030",
    "creativeRenditions": [
      {
        "creativeRenditionId": "45250830",
        "creativeApi": "None",
        "width": "1920",
        "height": "1080",
        "preference": "0",
        "bitrate": "29444",
        "parameters": {}
      }
    ],
    "asset": {
      "id": "46344190",
      "name": "GENCBS30H_ENT_MEZZ_HULU.mp4",
      "url": "https://ads-pd.nbcuni.com/tvn/GENCBS30H_ENT_MEZZ/GENCBS30H_ENT_MEZZ_HULU.mp4",
      "contentType": "video/mp4-h264",
      "mimeType": "video/mp4",
      "bytes": "113065423",
      "deliveryMethod": "progressive"
    },
    "otherAssets": []
  }
],

```

Figure 7

```

{
  "customId": "FUN-800861",
  "random": "5107",
  "networkId": "151933",
  "adSlots": [
    {
      "eventCallbacks": [
        {
          "url": "https://2517d.v.fwmrm.net/ad/1/1?s=f101&n=151933%3B151933%3B10886%3B169843%3B187827%3B188286%3B193466%3B375524%3B375600%3B375613%3B375617%3B375620%3B376521%3B378491%3B378678%3B379619%3B382114%3B382283%3B382314%3B382315%3B384777%3B386329%3B505334%3B510839%3B512029%3B516274&t=1610518100809656115&f=262144&cn=slotImpression&et=i&tpos=132&init=1&slid=2,3,4",
          "name": "slotImpression",
          "type": "IMPRESSION",
          "use": "OVERRIDE",
          "showBrowser": false,
          "trackingUrls": []
        },
        {
          "url": "https://2517d.v.fwmrm.net/ad/1/1?s=f101&n=151933%3B151933%3B10886%3B169843%3B187827%3B188286%3B193466%3B375524%3B375600%3B375613%3B375617%3B375620%3B376521%3B378491%3B378678%3B379619%3B382114%3B382283%3B382314%3B382315%3B384777%3B386329%3B505334%3B510839%3B512029%3B516274&t=1610518100809656115&f=262144&cn=slotEnd&et=i&tpos=132&init=1&slid=2,3,4",
          "name": "slotEnd",
          "type": "IMPRESSION",
          "use": "OVERRIDE",
          "showBrowser": false,
          "trackingUrls": []
        }
      ],
      "customId": "cue_point-1621844712",
      "selectedAds": [
        {
          "eventCallbacks": [
            {
              "url": "https://2517d.v.fwmrm.net/ad/1/1?s=f101&n=151933%3B151933%3B10886%3B169843%3B187827%3B188286%3B193466%3B375524%3B375600%3B375613%3B375617%3B375620%3B376521%3B378491%3B378678%3B379619%3B382114%3B382283%3B382314%3B382315%3B384777%3B386329%3B505334%3B510839%3B512029%3B516274&t=1610518100809656115&f=262144&r=151933&adId=23668445&reId=9581881&arId=0&iw=&uxnw=&uxss=&uxct=",
              "type": "GENERIC",
              "use": "BASE",
              "showBrowser": false,
              "trackingUrls": []
            }
          ],
          "type": "GENERIC",
          "use": "BASE",
          "showBrowser": false,
          "trackingUrls": []
        }
      ],
      "eventCallbacks": [
        {
          "url": "https://2517d.v.fwmrm.net/ad/1/1?s=f101&n=151933%3B151933%3B10886%3B169843%3B187827%3B188286%3B193466%3B375524%3B375600%3B375613%3B375617%3B375620%3B376521%3B378491%3B378678%3B379619%3B382114%3B382283%3B382314%3B382315%3B384777%3B386329%3B505334%3B510839%3B512029%3B516274&t=1610518100809656115&f=262144&r=151933&adId=48695193&reId=45250830&arId=2&iw=&uxnw=&uxss=&uxct=",
          "type": "GENERIC",
          "use": "BASE",
          "showBrowser": false,
          "trackingUrls": []
        }
      ],
      "type": "GENERIC",
      "use": "BASE",
      "showBrowser": false,
      "trackingUrls": []
    }
  ],
  "eventCallbacks": [
    {
      "url": "https://2517d.v.fwmrm.net/ad/1/1?s=f101&n=151933%3B151933%3B10886%3B169843%3B187827%3B188286%3B193466%3B375524%3B375600%3B375613%3B375617%3B375620%3B376521%3B378491%3B378678%3B379619%3B382114%3B382283%3B382314%3B382315%3B384777%3B386329%3B505334%3B510839%3B512029%3B516274&t=1610518100809656115&f=262144&r=151933&adId=48695193&reId=45250830&arId=2&iw=&uxnw=&uxss=&uxct=",
      "type": "GENERIC",
      "use": "BASE",
      "showBrowser": false,
      "trackingUrls": []
    }
  ],
  "type": "GENERIC",
  "use": "BASE",
  "showBrowser": false,
  "trackingUrls": []
}

```

Figure 8



Figure 9

34. As shown in Figure 10 a sponsor identification comprising the “url” (*see* box labeled C) and “adid” elements (*see* box labeled A) is associated with the end-of-slice marker that signals a subsequent end of a time slice determined by the “tpos” element with the corresponding value of “672” (*see* box labeled B). The “672” relates to the number of seconds that the viewer spent viewing the content corresponding to the slice from a point in the broadcast after which an enticement is transmitted by the Webservers to the Client Device.

```

    "customId": "cue_point-1672844713",
    "selectedAds": {
      "eventCallbacks": {
        "url": "https://2517d.v.fwmrm.net/ad/v1/17s=f101d=15193338151933381088638169843818782773818828638193466383755243837560038375613383756173837562038376521383784913837867838379619383821143838228338382314383823153838247773838632938385053343838510839383851202938385162744t=1610518100809656115f+e262144dr=1519333837961938382114adid=48695193eid=45250830ard=d=061w=&uxnm=&uxss=&uxct=",
        "type": "GENERIC",
        "use": "BASE",
        "showBrowser": false,
        "trackingUrl": {}
      },
      "url": "https://2517d.v.fwmrm.net/ad/v1/17s=f101d=15193338151933381088638169843818782773818828638193466383755243837560038375613383756173837562038376521383784913837867838379619383821143838228338382314383823153838247773838632938385053343838510839383851202938385162744t=1610518100809656115f+e262144dr=1519333837961938382114adid=48695193eid=45250830ard=d=061w=&uxnm=&uxss=&uxct=",
      "type": "GENERIC",
      "use": "BASE",
      "showBrowser": false,
      "trackingUrl": {}
    }
  },
  "name": "defaultImpression",
  "type": "IMPRESSION",
  "use": "OVERRIDE",
  "showBrowser": false,
  "trackingUrl": {
    "name": "defaultImpression",
    "value": "https://load.exelator.com/_load/?p=916g+pfp=24.4.176.66&sitename=Ffk3AH20S0G3Ah20S0nykZ0Cack1en3AN20Funtmatom3AN20web&cpid=48695181&pId=48695192&aId=6j=0&v=1&i0id=48695182&series=genre&rating="
  },
}

```

Figure 10

35. As reflected in Funimation’s privacy policy, and from an analysis of Funimation’s network communications, the Accused Instrumentalities include transmitting the broadcast including the embedded information and the content, the embedded information including data associated with the content, the data comprising at least one of a TV channel, content name, timestamp, the time slice, and the sponsor identification.

36. In particular, the Webservers transmit a response to the Client Device that includes the content and the embedded information, where the embedded information includes data comprising at least one of a TV channel, content name, timestamp, the time slice, and the sponsor identification. (*see* Figure 13). For example, as shown in Figure 11, the Webservers transmit an audio and video portion of the broadcast to the Client Device identified as “..._Layer6_00001.ts” (*See* box labeled A in Figure 11) in raw encoded format (*See* box labeled B in Figure 11).

```

GET https://d33et77evd9bqg.cloudfront.net/FunimationStoreFront/1899673/Japanese/1899673_Japanese_7479053_c020a6aa-7713-
e911-8175-020165574d09_Layer6_00001.ts?Key-Pair-
WF0aw9uU3RvcmvGcm9udC8xODk5NiczL0phcGFUZxN1LyoiLCJDb25kaXRpb241OmsiRGFOZUx1c3NUagFUIp7IkFXUzpFcG91aFRpbWU0jE2MTA1MiE2OTd5f
X1dfQ__&Signature=sZuQ16DPcPumjFH1jZAw8HC-1s1jw1F1aHMAeZRTfJe-Z9tGCQv-
MhCiXaDvn9uQagHByts1lQMqpzspeeS2K8f4wZV3JUl1NMqCq72vF1SiERKEN6sYvX1yOLEOTLvrSskqwaAWzas1lxTfupHwVNPdseYyKsRRq16NHa030Kv9ckZ
Xc8IZTWVKG7bp5R-Hj3WamJJJaYFDG061WKMFPp4P9X2skwwfOR096Awrg1-q5N-
1qHbchPBI34KQsNo8DSCIK1vEYVwe1KXL~BRq10962rXSLqNcMRovLAjSf1nR1-ePonHwZaz1NnPLAIOxT4Qs4VC4-3iyFcHBWrdIw__&rt=1381959
HTTP/1.1
Host: d33et77evd9bqg.cloudfront.net
Connection: keep-alive
User-Agent: Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/87.0.4280.141
Safari/537.36
Accept: */*
Origin: https://www.funimation.com

. . .

HTTP/1.1 200 OK
Content-Type: application/octet-stream
Content-Length: 2005216
Connection: keep-alive
Date: Tue, 12 Jan 2021 10:51:35 GMT
Access-Control-Allow-Origin: *
Access-Control-Allow-Methods: GET, HEAD
Access-Control-Max-Age: 3000
Last-Modified: Sat, 07 Nov 2020 05:20:50 GMT
ETag: "657e2932210b8e4cde0fe91993a30a0b-1"
Accept-Ranges: bytes
Server: AmazonS3
Vary: Origin
X-Cache: Hit from cloudfront
Via: 1.1 ec53ea7490128507417199834543513b.cloudfront.net (CloudFront)
X-Amz-CF-Pop: SFO5-C1
X-Amz-CF-Id: 2NXQ6qNw2PeSE6TGVsISswqB1f0bXhr62hgCi_rHPjpyXzmh625ZQ==
Age: 69479

ikv0V000000000000$wuu$00000000&u00I0JH00fx<00000~00M03s00000<u004c006Gr0W50t^C8000Pq00s6x0b00 800dP0t0\000'00000.~J!
*0000000g
*** FIDDLER: RawDisplay truncated at 128 characters. Right-click to disable truncation. ***

```

Figure 11

37. As shown in Figure 12, the Webservers also transmit subtitles associated with the broadcast to the Client Device.

```

HTTP/1.1 200 OK
Content-Type: application/octet-stream
Content-Length: 18938
Connection: keep-alive
Date: Tue, 05 Jan 2021 15:10:34 GMT
Access-Control-Allow-Origin: *
Access-Control-Allow-Methods: GET, HEAD
Access-Control-Max-Age: 3000
Last-Modified: Sat, 07 Nov 2020 08:34:14 GMT
ETag: "a5211ca5369e1cbf36802f84371f3faf"
x-amz-server-side-encryption: AES256
Content-Disposition: filename=ed50fbe1-52c3-49b5-9275-7043afe7eb6c.vtt
Accept-Ranges: bytes
Server: AmazonS3
Vary: Origin
X-Cache: Hit from cloudfront
Via: 1.1 15365d407e25fe69ecac1463c41733fb.cloudfront.net (CloudFront)
X-Amz-Cf-Pop: SFO5-C3
X-Amz-Cf-Id: FTBvhGMA48E3lDDRKuPRKz-tzp7dkSFd9LPbzdVvyQOEmEWbrSx9-A==
Age: 658667

WEBVTT #EZConvert5 Custom Text Format
X-TIMESTAMP-MAP=MPEGTS:126000,LOCAL:00:00:00.000

00:00:19.583 --> 00:00:21.958 align:middle
what is this?

00:00:21.958 --> 00:00:25.792 align:middle
It's a gate. It connects the inside and outside.

00:00:25.792 --> 00:00:27.292 align:middle
Outside, huh?

00:00:27.292 --> 00:00:29.375 align:middle
We've never been outside.

00:00:29.375 --> 00:00:32.750 align:middle
That's because we've been here
ever since we were born.

00:00:33.708 --> 00:00:36.417 align:middle
Mom always tells us, doesn't she?

00:00:36.417 --> 00:00:40.708 align:middle
"Don't go near the gate or fence in the back
of the forest because it's dangerous."

00:00:40.708 --> 00:00:43.500 align:middle
That's obviously a lie.

```

Figure 12

38. Additionally, the Funimation's Privacy Policy page (<https://www.sonypictures.com/corp/privacy.html>), which is incorporated herein in its entirety and enclosed as Exhibit B, demonstrates and confirms the Accused Instrumentalities transmit the broadcast including the embedded information and the content, the embedded information including data associated with the content, the data comprising at least one of a TV channel, content name, timestamp, the time slice, and the sponsor identification, as shown in Figure 13:

B. Information Collected Automatically.

SPE, its Service Providers, and/or Third-Party Services may also automatically collect certain information about you when you access or use the Service ("Usage Information"). **Usage Information** may include IP address, device identifier, browser type, operating system, **information about your use of the Service**, and data regarding network connected hardware (e.g., computer or mobile device) . . .

The methods that may be used on the Service to collect Usage Information include:

- **Log Information:** Log information is data about your use of the Service, such as IP address, browser type, internet service provider, referring/exit pages, operating system, **date/time stamps**, and related data, and may be stored in log files.
- **Information Collected by Cookies and Other Tracking Technologies:** Cookies, web beacons (also known as "tracking pixels"), embedded scripts, location-identifying technologies, fingerprinting, device recognition technologies, in-app tracking methods and other tracking technologies now and hereafter developed ("Tracking Technologies") may be used by SPE and third parties including other Sony group companies to collect information about **interactions with the Service** or e-mails, including information about your browsing and purchasing behavior.
 - Cookies

A cookie is a small text file that is stored on a user's device, which may be session ID cookies or tracking cookies . . . Tracking cookies remain longer and help in understanding **how you use the Service**, and enhance your user experience. . . .
 - Web Beacons ("Tracking Pixels")

Web beacons are small graphic images, also known as "internet tags" or "clear gifs," embedded in web pages and e-mail messages. Web beacons may be used, without limitation, to count the number of visitors to the Service, to monitor **how users navigate the Service**, to **count content views**, and to measure the effectiveness of our advertising and email marketing.
 - Embedded Scripts

An embedded script is programming code designed to collect information about **your interactions with the Service**. It is temporarily downloaded onto your computer from SPE's web server, or from a third party with which SPE works, and is active only while you are connected to the Service, and deleted or deactivated thereafter . . .
 - In-App Tracking Methods

There are a variety of Tracking Technologies that may be included in mobile applications, and these are not browser-based like cookies and cannot be controlled by browser settings. Some use device identifier, or other identifiers such as "Ad IDs" to associate **app user activity to a particular app** and to track user activity across apps and/or devices.

Some information about your use of the Service and certain Third-Party Services may be collected using Tracking Technologies across time and services, and used by SPE, Sony group companies, and third parties for purposes such as to associate different devices you use, and **deliver relevant ads** and/or other content to you on the Service and certain Third-Party Services . . .

...

Figure 13

39. As reflected in Funimation's privacy policy, and from an analysis of Funimation's network communications, the Accused Instrumentalities include receiving from a device, a user identifier and viewing information.

40. In particular, the Accused Instrumentality receives, from the Client Device, a user identifier and viewing information, the viewing information specifying how much time a viewer spent viewing the content corresponding to the time slice. For example, as shown in Figure 14, the Webservers receive information that allows the viewer type to be determined as "Repeat" or "New" (*see* box labeled A) . As another example, as shown in Figure 14, the Webservers receives information that allows the viewer to be determined as

a subscribed user along with the subscription frequency and viewer's country (see box labeled B). As another example, as shown in Figure 14, the Webservers receive other viewer information such as the viewer's playback preferences, the viewer's gender identified as "customerGender," the user's ID identified as "userID," and the user's age (see box labeled C).

```

    'userCookie': PIUser,
    'dimensions5': queryId,
    'dimensions4': PISession
  };

  if(userData){
    KANE_customdimensions['customerType'] = 'Repeat';
  } else {
    KANE_customdimensions['customerType'] = 'New';
  }

  if(userData.subscription){
    var subscriptionFrequency = userData.subscription.subscriptionFrequency;
    var subscriptionFrequencyDisplay = '';
    if (subscriptionFrequency){
      subscriptionFrequencyDisplay = subscriptionFrequency === 'month' ? 'Monthly' : 'Yearly';
    }

    if(userData.subscription.freeTrial){
      KANE_customdimensions['freeTrial'] = 'true';
    }

    KANE_customdimensions['userCountry'] = userData.subscription.subscriptionRegion || '';
    KANE_customdimensions['planName'] = userData.subscription.plan + ' - ' + subscriptionFrequencyDisplay;
    KANE_customdimensions['userAccessLevel'] = userData.subscription.plan;
  }

  if(userData.user && userData.user.profileData){
    KANE_customdimensions['autoPlay'] = userData.user.profileData.autoPlay;
    KANE_customdimensions['audioPreference'] = userData.user.profileData.audioPreference;
    KANE_customdimensions['restrictMatureContent'] = userData.user.profileData.restrictMatureContent;
    KANE_customdimensions['enableClosedCaption'] = userData.user.profileData.enableClosedCaption;
    KANE_customdimensions['enableSubtitles'] = userData.user.profileData.enableSubtitles;
    KANE_customdimensions['qualityPreference'] = userData.user.profileData.qualityPreference;
    KANE_customdimensions['userID'] = userData.user.id;
    if (userData.user.profileData.customerGender){
      KANE_customdimensions['gender'] = 'customerGender';
    } else if(userData.user.profileData.gender){
      KANE_customdimensions['gender'] = userData.user.profileData.gender;
    }

    if(userData.user.profileData.birthYear){
      KANE_customdimensions['customerAge'] = new Date().getFullYear() - userData.user.profileData.birthYear;
    }
  }

```

Figure 14

41. As another example, as shown in Figure 15, the Webservers set cookie data "uid" received from the Client Device for identification of user and viewer information.

```

Response sent 95 bytes of Cookie data:
Set-Cookie: _ue="127719%2C174053%2C384101%2C512167%2C518308";SameSite=None;Secure;domain=.fwmm.net;path=/;

Response sent 53 bytes of Cookie data:
Set-Cookie: _ha="";SameSite=None;Secure;domain=.fwmm.net;path=/;

Response sent 78 bytes of Cookie data:
Set-Cookie: _sid="f101_6917122569116311590";SameSite=None;Secure;domain=.fwmm.net;path=/;

Response sent 79 bytes of Cookie data:
Set-Cookie: _ab_test="20%2C33%7E200%2C-1%3B";SameSite=None;Secure;domain=.fwmm.net;path=/;

Response sent 106 bytes of Cookie data:
Set-Cookie: _std="151933.0.0%2C";SameSite=None;Secure;expires=Thu, 13 Jan 2022 06:08:20 GMT;domain=.fwmm.net;path=/;

Response sent 116 bytes of Cookie data:
Set-Cookie: _uid="f101_6917122569116311561";SameSite=None;Secure;expires=Thu, 13 Jan 2022 06:08:20 GMT;domain=.fwmm.net;path=/;

Response sent 115 bytes of Cookie data:
Set-Cookie: _cph="1610518100.16108.1.1%2C";SameSite=None;Secure;expires=Fri, 12 Feb 2021 06:08:20 GMT;domain=.fwmm.net;path=/;

Response sent 134 bytes of Cookie data:
Set-Cookie: _sc="sg696385.1610518100.1610518100.28800.0.0%2C";SameSite=None;Secure;expires=Fri, 12 Feb 2021 06:08:20 GMT;domain=.fwmm.net;path=/;

Response sent 98 bytes of Cookie data:
Set-Cookie: _wr="g696385";SameSite=None;Secure;expires=Fri, 12 Feb 2021 06:08:20 GMT;domain=.fwmm.net;path=/;

```

Figure 15

42. As reflected in Funimation’s privacy policy, and from an analysis of Funimation’s network communications, the Accused Instrumentalities include the viewing information specifying how much time a viewer spent viewing the content corresponding to the time slice. For example, this can be identified by the value of corresponding to the “tpos” element, where the “tpos” element relates to the number of seconds of broadcast viewed by the remote viewer from the start of the broadcast after which the specific enticement is presented to the remote viewer. As the broadcast is streamed on the Client Device, the Client Device is able to determine how much time a viewer spent viewing the corresponding time slice. Before the viewer information specifying the amount of broadcast viewed by the remote viewer equals the number of seconds specified by the “tpos” element, i.e., 132 seconds (*See* box labeled B of Figure 16), the Client Device sends a request to the Webservers to obtain from the Webservers the specific enticement (*See* box labeled A of Figure 16) associated with the amount of the broadcast viewed by the remote viewer. This request includes viewing information specifying how much time a viewer spent viewing the content corresponding to the time slice (*See* box labeled B of Figure 15).

```
GET https://2517d.v.fwmrm.net/ad/?l=17metr=4746s=f101&l=151933%3B151933%3B10886%3B169843%3B187827%3B188286%3B193466%3B375524%  
3E75600%3B375613%3B375617%3B375620%3B376521%3B378491%3B378678%3B379619%3B382114%3B382283%3B382322%3B382375%3B384777%3B386329%  
3B50534%3B38510839%3B3851202%3B385162744t=1610518100809656115&f=262144&r=151933%3B379619%3B382114%&id=48695193%&eid=45250832&aid=2  
&auid=&cfn=defaultImpression&t=1&_cc=  
48695193.452508320.74425.74459.39255.43001.52193.54265.56006.63808.63820.63828.63875.72118.72158.73057.73267.74421.74422.74425.744  
29.74459.74463.74960..1610518100..16105132..w=&uxnw=&uxxs=&uxt=c&init=1&asid=1934109246&ssid=7962367&pingsig=427&acr=https%3A2F%  
2FX.mdnv..102FE8tAtT4xb4H8L27qXQ8eVXS509%F0%3D48695192%26%3D1m%26n%3D24..4.176.66%261%3D0%26%3D1610518100809656115%26c%  
3D8730712%26x%3D113869903.1667165%P=16171393%26z%3D26w%3D26v%3D253AA%2520S9%253AA%2520S0ny%2520CrackLe%25203A%  
2520Funimation%253A%2520Web%26u%3DHttPs%253A%252F%252Fwww.funimation.com%252F%26o%3Dwww.funimation.com%26a%3D48695193%26m%3DS00%  
26%3D45250830%26s%3D132.midroll.90%26v%3D%26d%3D.500%26g%3D%26o%3D. HTTP/1.1
```

Host: 2517d.v.fwmrm.net
Connection: keep-alive
User-Agent: Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/87.0.4280.141 Safari/537.36
Accept: image/avif,image/webp,image/apng,image/*,*/*;q=0.8
Sec-Fetch-Site: cross-site
Sec-Fetch-Mode: no-cors
Sec-Fetch-Dest: image
Referer: <https://www.funimation.com/>

Accept-Encoding: gzip, deflate, br
Accept-Language: en-US,en;q=0.9

Cookie: _ue="127719%2C174053%2C384101%2C512167%2C518308"; _ka="101_6917122569116311590"; _ab_test="20%2C33%7E200%2C-1%
3B"; _stid="151933.0.0%2C"; _lui="f101_6917122569116311561"; __cpmh="1610518100.16108.1.1%2C"; _wr="g696385";
_vr="1610518100.5107.23668444%2C23668445%2C40734668%2C40734669%7E43926027%7E43926028%7E48695193%7E49884008%7E49978387%7E49978388%
7E49981045%7E50205407%7E50205408%7E50205409%7E50205410.1440%2C"; _avai="1610518109.50205401.1440%2C"; _asave="1610518338.49884007.44639.193410924%2C";
_auvw="g696385%7E1.1610518173.132%2C2.1610518368.0%2C21262.1610518173.132%2C21263.1610518368.0%2C%5E";
_sc="sg696385.1610518100.1610518368.28800.120.102%2C"

B. Information Collected Automatically.

SPE, its Service Providers, and/or Third-Party Services may also automatically collect certain information about you when you access or use the Service ("Usage Information"). **Usage Information** may include IP address, device identifier, browser type, operating system, **information about your use of the Service**, and data regarding network connected hardware (e.g., computer or mobile device) . . .

The methods that may be used on the Service to collect Usage Information include:

- **Log Information:** Log information is data about your use of the Service, such as IP address, browser type, internet service provider, referring/exit pages, operating system, **date/time stamps**, and related data, and may be stored in log files.
- **Information Collected by Cookies and Other Tracking Technologies:** Cookies, web beacons (also known as "tracking pixels"), embedded scripts, location-identifying technologies, fingerprinting, device recognition technologies, in-app tracking methods and other tracking technologies now and hereafter developed ("Tracking Technologies") may be used by SPE and third parties including other Sony group companies to collect information about **interactions with the Service** or e-mails, including information about your browsing and purchasing behavior.
 - Cookies

A cookie is a small text file that is stored on a user's device, which may be session ID cookies or tracking cookies . . . Tracking cookies remain longer and help in understanding **how you use the Service**, and enhance your user experience. . . .
 - Web Beacons ("Tracking Pixels")

Web beacons are small graphic images, also known as "internet tags" or "clear gifs," embedded in web pages and e-mail messages. Web beacons may be used, without limitation, to count the number of visitors to the Service, to monitor **how users navigate the Service**, to **count content views**, and to measure the effectiveness of our advertising and email marketing.
 - Embedded Scripts

An embedded script is programming code designed to collect information about **your interactions with the Service**. It is temporarily downloaded onto your computer from SPE's web server, or from a third party with which SPE works, and is active only while you are connected to the Service, and deleted or deactivated thereafter . . .
 - In-App Tracking Methods

There are a variety of Tracking Technologies that may be included in mobile applications, and these are not browser-based like cookies and cannot be controlled by browser settings. Some use device identifier, or other identifiers such as "Ad IDs" to **associate app user activity to a particular app** and to track user activity across apps and/or devices.

Some information about your use of the Service and certain Third-Party Services may be collected using Tracking Technologies across time and services, and used by SPE, Sony group companies, and third parties for purposes such as to associate different devices you use, and **deliver relevant ads** and/or other content to you on the Service and certain Third-Party Services . . .

...

Figure 17

44. As reflected in Funimation's privacy policy, and from an analysis of Funimation's network communications, the Accused Instrumentalities include retrieving user information associated with the user identifier. For example, as shown in Figure 16 above, the Webservers receive a user information associated with the user identifier "uid" (See box labeled C) from the Client Device.

45. Additionally, Funimation's Privacy Policy page (<https://www.sonypictures.com/corp/privacy.html>), which is incorporated herein in its entirety and enclosed as Exhibit B, demonstrates and confirms the Accused Instrumentalities retrieve user information associated with the user identifier, as shown in

Figure 18:

COLLECTION OF INFORMATION

A. Information You Provide.

i. **SPE, and/or its Service Providers (defined below), may collect information you provide directly to SPE and/or its Service Providers via the Service.** For example, SPE collects information when you use or register for the Service, subscribe to notifications, post on the Service, participate in promotional activities, or communicate or transact with SPE through the Service. In addition, when you interact with Third-Party Services (defined below), you may be able to provide information to those third parties. For more information on Third-Party Services' data collection and practices click [here](#). For more information on Service Provider data collection and practices click [here](#).

ii. **Information SPE, its Service Providers and/or Third-Party Services may collect may include: (1) personally identifiable information, which is information that identifies, or is reasonably capable of identifying you personally, such as your first and last name, e-mail address, phone number, address, and full payment account number, or your device, including certain digital identifiers, such as cookie IDs ("Personal Information"); and (2) non-Personal information, such as (to the extent permitted by applicable law) your interests ("non-Personal Information").** In addition, Personal Information, including, without limitation, SPE-Collected PI (defined below), once "de-identified" (i.e., the removal of personal identifiers from data or other means to make it no longer reasonably identifiable and no attempt made to reidentify the information to an individual) is also non-Personal Information and may be used and shared without obligation to you, except as prohibited by applicable law. To the extent any non-Personal Information is combined by or on behalf of SPE with Personal Information SPE itself collects directly from you on the Service ("SPE-Collected PI"), SPE will treat the combined data as SPE-Collected PI under this Privacy Policy....

Figure 18

46. As reflected in Funimation's privacy policy, and from an analysis of Funimation's network communications, the Accused Instrumentalities include searching a database for an enticement based on the user information, the viewing information, and the sponsor identification. Upon receiving user information, viewer information, and/or sponsor information, the Webservers search a database for an enticement or ad based on the user information, the viewing information, and the sponsor identification. For example, Figure 19 and Figure 20 show screenshots of differing enticements associated with content demonstrating the Accused Instrumentalities functionality of searching a database for various enticements based on the user information, the viewing information, and the sponsor identification.

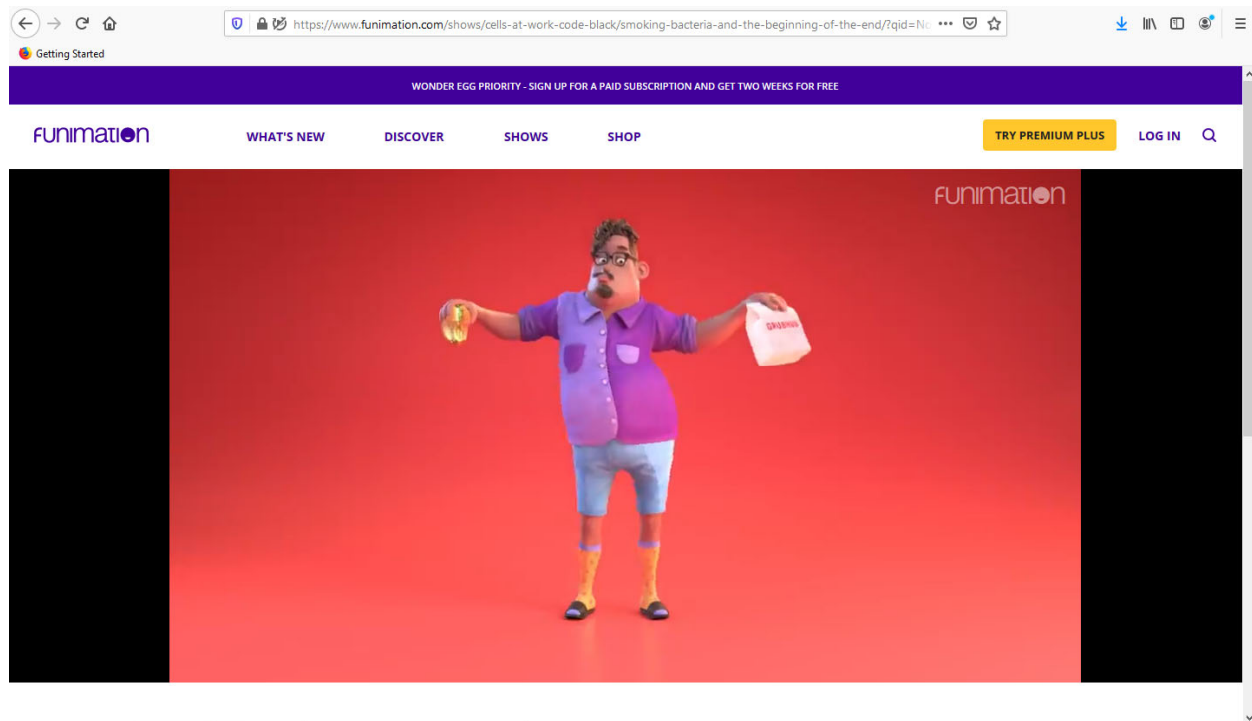


Figure 19

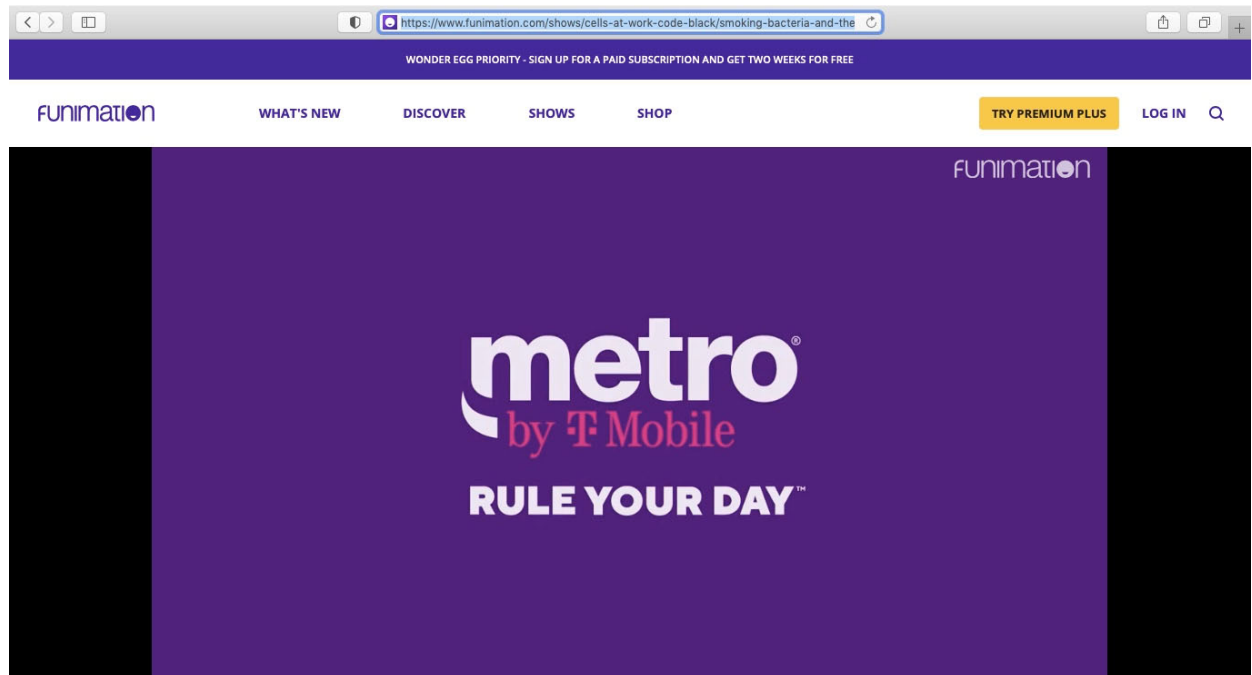


Figure 20

47. As reflected in Funimation's privacy policy, and from an analysis of Funimation's network communications, the Accused Instrumentalities include transmitting

the enticement based on at least one of: the embedded information, the viewing information, the user information, and a sponsor of the broadcast. The Webservers transmit the enticement or ad based on at least one of the embedded information, the viewing information, the user information, and a sponsor of the broadcast to the Client Device. For example, as discussed earlier, the Client Device transmits a request to obtain specific enticement based on the viewing information including the amount of broadcast viewed by the remote viewer, the user information, and the sponsor information to the Webservers. In response to this request, the Webservers transmit the enticement or an ad to the Client Device. Additionally, Funimation's Privacy Policy page (<https://www.sonypictures.com/corp/privacy.html>), which is incorporated herein in its entirety, indicates that the Accused Instrumentality transmits the enticement based on at least one of: the embedded information, the viewing information, the user information, and a sponsor of the broadcast:

USE OF INFORMATION

SPE may use information about you, including SPE-Collected PI and other Personal Information, for any purposes consistent with SPE's statements under this Privacy Policy and not prohibited by applicable law, including, without limitation, the following:

- Allow you to participate in the features we offer on the Service;
- Facilitate, manage, personalize, and improve your online experience;
- Process your registration and/or upload your User Generated Content ("UGC"). (For more information on how UGC is treated under the Service's Terms of Use click here. For more on the public nature of UGC, see Section 5);
- Transact with you, provide services or information you request, respond to your comments, questions and requests, **serve you content and/or advertising, and send you notices;**

- For Sony group companies' **marketing** and other purposes including identity resolution;
- Improve the Service and for any other internal business purposes;
- **Tailor our content, advertisements, emails, SMS/Text messages and offers;**
- Fulfill other purposes disclosed at the time you provide Personal Information or otherwise where we are legally permitted or are required to do so;
- Determine your location and manage digital content rights (e.g., territory restrictions); and
- Prevent and address fraud, breach of policies or terms, and threats or harm.

48. Funimation has had actual knowledge of its infringement of the '999 Patent since at least the time of service of this Complaint and continues to infringe the '999 Patent notwithstanding that knowledge.

49. Funimation actively encourages, directs, and controls third parties, including its customers and partners, to use the Accused Instrumentalities in an infringing manner, including through Funimation's website, advertisements, documentation/instructional material, customer support, application and feature descriptions, and in-application instructions.

50. Firtiva is informed and believes, and on this basis alleges, that from at least the time of service of this Complaint, Funimation is inducing infringement of the '999 Patent, literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(b), by knowingly encouraging or aiding third parties to make, use, sell or offer to sell the Accused Instrumentalities in the United States, or to import the Accused Instrumentalities into the United States, and/or in violation of 35 U.S.C. § 271(f)(1), by supplying or causing to be supplied the Accused Instrumentalities in or from the United States, without license

or authority from Firtiva, with knowledge of or willful blindness to the fact that Firtiva's actions will induce others, including but not limited to its customers, partners, and/or end users, to directly infringe the '999 Patent. Firtiva is further informed and believes, and on this basis alleges, that Funimation has intentionally aided and encouraged third parties (including Funimation's customers, partners, and/or end users) to use the Accused Instrumentalities in the United States in a manner that it knows would infringe or have a high probability of infringing the '999 Patent, with the specific intent that those performing the acts infringe the '999 Patent.

51. Firtiva is informed and believes, and on this basis alleges, that from at least the time of service of this Complaint, Funimation is contributorily infringing the '999 Patent, literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(c), by selling, offering to sell, and/or importing into the United States, and/or in violation of 35 U.S.C. § 271(f)(2), by supplying or causing to be supplied in or from the United States, the Accused Instrumentalities for use in infringing the '999 Patent, constituting a material part of the invention, knowing the Accused Instrumentalities to be especially made or especially adapted for use in infringing the '999 Patent. Firtiva is further informed and believes, and on this basis alleges, that the Accused Instrumentalities is not a staple article or commodity of commerce suitable for substantial non-infringing use.

52. Firtiva is informed and believes, and on this basis alleges, that these third parties have infringed and will infringe the '999 Patent by using the Accused Instrumentalities in violation of 35 U.S.C. § 271(a).

53. As a result of Funimation's infringement of the '999 Patent, Firtiva has been damaged. In addition, Funimation's infringing acts and practices have caused and are

causing immediate and irreparable harm to Firtiva. Firtiva is entitled to recover for damages sustained as a result of Funimation's wrongful acts in an amount yet to be determined and to receive such other and further relief, including equitable relief, as this Court deems just and proper.

54. Firtiva is further informed, and on this basis alleges, that Funimation's infringement of the '999 Patent has been and continues to be deliberate and willful, and, therefore, this is an exceptional case warranting an award of enhanced damages for up to three times the actual damages awarded and attorney's fees to Funimation pursuant to 35 U.S.C. §§ 284-285. As noted above, Funimation has had knowledge of the '999 Patent and its infringement thereof, and yet has deliberately continued to infringe in a wanton, malicious, and egregious manner, with reckless disregard for Firtiva's patent rights. Thus, Funimation's infringing actions have been and continue to be consciously wrongful.

55. To the extent 35 U.S.C. § 287 is determined to be applicable, Firtiva is informed and believes its requirements have been satisfied with respect to the '999 Patent.

56. Funimation's use of the '999 Patent is not licensed or authorized by Firtiva in any way. Firtiva has not licensed the '999 Patent to Funimation.

V. DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Firtiva hereby demands a trial by jury of any and all issues triable of right before a jury.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff Firtiva Corporation respectfully requests that the Court:

- A. Enter a judgment that Funimation has infringed, contributorily infringed, and/or induced infringement of one or more claims of the '999 Patent;
- B. Enter a judgment awarding Plaintiff Firtiva all damages adequate to

compensate it for Defendant Funimation's direct or contributory infringement of, or inducement to infringe, the '999 Patent, including all pre-judgment and post-judgment interest at the maximum rate permitted by law;

C. Declare that the '999 patent is valid and enforceable;

D. Order Funimation to pay damages adequate to compensate Firtiva for Funimation's infringement, together with interest and costs under 35 U.S.C. § 284;

E. Order Funimation to pay supplemental damages to Firtiva, including interest, with an accounting, as needed;

F. Declare this case exceptional pursuant to 35 U.S.C. § 285;

G. Declare that Funimation's infringement is willful and that the damages awarded to Firtiva should be enhanced up to three times the actual damages awarded;

H. Award Plaintiff Firtiva its costs, disbursements, expert witness fees, and attorneys' fees incurred in prosecution this action, with interest; and

I. Award Plaintiff Firtiva other such and further relief, including equitable relief, as this Court deems just and proper.

Dated: March 31, 2021

Respectfully submitted,

/s/Brian R. Michalek w/permission Andrea L. Fair

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